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9
10 **UNITED STATES DISTRICT COURT**
11 **DISTRICT OF ARIZONA**

12 In Re Bard IVC Filters Products
13 Liability Litigation

No. MD-15-02641-PHX-DGC

14 **PLAINTIFF'S MOTION TO PERMIT**
15 **PLAINTIFF DEBRA TINLIN TO**
16 **APPEAR IN COURT AND PROVIDE**
17 **TESTIMONY BY**
18 **CONTEMPORANEOUS ELECTRONIC**
19 **TRANSMISSION FROM ANOTHER**
20 **LOCATION**

(Assigned to the Honorable David G.
Campbell)

(Tinlin Bellwether Case)

21 Plaintiff, Debra Tinlin, by and through counsel undersigned, pursuant to Fed. R.
22 Civ. P. 43(a), hereby moves for an order from the Court permitting her to provide
23 testimony by contemporaneous transmission from a different location.

24 Plaintiff Debra Tinlin has been treated for medical conditions including
25 longstanding right leg paralysis and bilateral upper extremity dysmetria complicated by
26 muscle spasms and poor endurance which have rendered wheelchair bound. Based on
27 these conditions, Dr. Stanko has determined that Plaintiff should not travel to Phoenix,
28 Arizona for trial beginning on May 13, 2019. See Heather A. Stanko, M.D.

1 correspondence dated February 27, 2019 attached hereto as Exhibit A. Leah A. Nitke,
 2 D.O. a neurologist who also has subspecialty certification in neurophysiology and
 3 vascular neurology has also provided treatment to Debra Tinlin and has also advised that
 4 she should not fly at this time. See correspondence from Leah A. Nitke, D.O. dated
 5 February 28, 2019, attached hereto as Exhibit B, incorporated herein by reference.

6 Based upon the foregoing, Plaintiff submits that compelling circumstances exist to
 7 permit Plaintiff Debra Tinlin to testify in open court by contemporaneous transmission
 8 from a different location. Plaintiff's counsel are investigating whether the Eastern District
 9 Court in Green Bay, Wisconsin, which is near to Plaintiff's residence, can provide
 10 appropriate accommodations and be equipped to accomplish contemporaneous
 11 transmissions in order to ensure appropriate safeguards for her testimony.

12 Plaintiffs also request the Court to consider Ms. Tinlin's remote attendance during
 13 other important stages of the trial, including jury selection and opening and closing
 14 statements.

15 For reasons set forth herein, and for good cause in compelling circumstances,
 16 Plaintiff Debra Tinlin requests the Court for an order permitting her to provide testimony
 17 and participate in other stages of the trial by contemporaneous transmission from a
 18 different location.

19 RESPECTFULLY SUBMITTED this 1st day of March, 2019.

20 BEUS GILBERT, PLLC

21 By: /s/ Mark S. O'Connor

22 Mark S. O'Connor

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26 Ramon Rossi Lopez (CA Bar No. 86361)

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CERTIFICATE OF SERVICE

I hereby certify that on this 1st day of March 2019, I electronically transmitted the attached document to the Clerk's Office using the CM/ECF System for filing and transmittal of a Notice of Electronic Filing.

/s/Jessica Gallentine